

REMARKS

Claims 1-15 and 21-32 are pending. Claims 16-20 have been cancelled without prejudice to the underlying subject matter. Claim 24 was objected to because of an informality and pending claims 1-11, and 21-32 were rejected as being allegedly obvious based upon references identified in the Office action. Claims 12-15 have been allowed.

CLAIM OBJECTION

Claim 24 has been amended to fix the typographical error in the claim.

35 U.S.C. § 103

Claims 1, 3-5, 7, 9, 11, 21-22, and 28-31 stand rejected as being allegedly obvious when considering Greiner (EP 405 284 A2), Allen et al. (US 6,495,204), and Smith (US 4,734,451).

Greiner is directed to a bath system for impregnating catheters with therapeutic.

Allen is directed to methods of modifying monofilaments, bundles of monofilaments, and fibrous structural materials. It is not directed to medical devices or methods of coating them. In fact, it doesn't use either medical or therapeutic in its disclosure.

Smith regards Fluid Injection Molecular Spray ("FIMS") for depositing solid film or forming fine powders on a substrate. Like Allen, Smith does not address medical devices or therapeutic and like Allen, Smith is not relevant prior art.

As to claim 1, and its dependent claims, the undersigned requests reconsideration at least because none of the cited references disclose or suggest "transporting, within a conduit, the interfaced therapeutic and supercritical fluid towards [a] medical device," as recited therein. In rejecting claim 1, the Office action acknowledged that Greiner fails to teach, among many things, coating a medical device with spray-on deposition and transporting interfaced therapeutic within a conduit towards a medical device. The Office action then seeks to fill these shortcomings with Allen and Smith. However, neither Allen nor Smith teaches the use of a therapeutic or the coating of a medical device. Furthermore, there is no reasonable basis to believe that their teachings can be expanded or otherwise stretched to include such disclosure. In fact, the undersigned submits that neither reference is relevant prior art as neither one of them regards coating a medical device, the subject matter to which the claims are directed.

As to claim 21, none of the cited references disclose or suggest, “applying a vacuum force to a chamber containing the medical device,” as in the claim. The Office action cites to col. 13, lns. 60+ of Smith as disclosing this feature, however, the cited portion of text addresses increasing the pressure in chamber 218, not applying a vacuum as recited in the claim. For at least this reason, the undersigned submits that claim 21 is patentable over the references.

As to claim 22, none of the references suggest or disclose “removing residual therapeutic from the supercritical fluid after collecting the supercritical fluid,” as recited therein. While Allen includes a process flowchart, the process described does not include the step of collecting a mixture of supercritical fluid and therapeutic and then removing the therapeutic from the supercritical fluid. Rather, the flowchart only shows reusing a mixture of solvent and treatment mixture. It fails not only because the treatment is not removed from the mixture but also because the treatment is not a therapeutic as recited in the claim. For at least these reasons, the claim is patentable over the cited references.

Claims 29-31 were rejected because the Examiner argued that “the limitations of claims 29-31 would be within the level of ordinary skill to achieve uniform covering of all areas of the device to be coated.” The undersigned disagrees and requests a reference that supports this argument if it is maintained in the next Office action.

Claims 2, 6, 8, 10, 23-27 and 32 were rejected over the cited references and four additional patents (US 5,383,928; US 5,900,246; US 5,954,724; and US 6,627,146). While these patents address medical devices or therapeutics, none of them at least disclose or suggest the language recited above from claim 1. For at least this reason, these claims are also patentable over the cited references.

Support in the specification for the amendments to claims 3, 8, 11, and 30 can be found in the as-filed specification and drawings, including Figs. 2-4 and pages 3-7 and 9.

CONCLUSION

The claims are patentable over the cited references for at least the proceeding reasons. Reconsideration in light of the proceeding remarks is requested.

Should the Examiner have any questions regarding this submission, she is invited to contact the undersigned at 202-220-4311.

Respectfully submitted,

Dated: January 19, 2005

A handwritten signature in dark ink, appearing to read 'F. Grasso', written over a horizontal line.

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